

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,  as representative of  THE COMMONWEALTH OF PUERTO RICO, et al.,  Debtors	PROMESA Title III  Case No. 17 BK 3283-LTS
In re:  THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,  as representative of  PUERTO RICO ELECTRIC POWER AUTHORITY,  Debtor	PROMESA Title III  Case No. 17 BK 4780-LTS

**PV PROPERTIES, INC.’S OBJECTION TO DISCLOSURE STATEMENT  
TO THE HONORABLE COURT:**

COMES NOW PV Properties, Inc. (“PV Properties”), through its undersigned counsel, and respectfully states and requests:

1. On December 16, 2022, the Financial Oversight and Management Board (the “Oversight Board”) as representative of Puerto Rico Power Authority (“PREPA”) filed its plan of adjustment (the “Plan”) and its Disclosure Statement in the captioned case [**ECF No. 23097**].
2. The Court granted creditors and parties in interest until February 3, 2023 at 5:00 p.m. (AST) to file objections to the approval of the adequacy of the Disclosure Statement [**ECF No. 23159**].

3. It is PV Properties' position that the Disclosure Statement is defective as it doesn't properly address Puerto Rico's public policy regarding energy and the environmental attributes associated with the generation of electricity utilizing renewable energy as established by the following legislation:

Act No. 114-2007 "Puerto Rico Net Metering Program Act"

Act No. 82-2010 "Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act"

Act No. 83-2010 "Green Energy Incentive Act of Puerto Rico"

Act No. 57-2014 "The Puerto Rico Energy Transformation and Relief Act"

Act No. 17-2019 "Puerto Rico Energy Public Policy Act"

4. Since 2015, PREPA has refused to purchase from distributed generation Prosumers the Renewable Energy Credits ("RECs") generated and self-consumed and the RECs generated and exported to the Grid.

5. What follows are two tables reflecting the RECs generated by Distributed Generator Prosumers and those generated by PV Properties:

**RECs Generated by Distributed Generation Prosumers**

	kWh	kWh	kWh	\$	\$	\$	kWh	%
Year	Exported	estimated (capacity x 1500)	Self- Consumed	Exported	Self- Consumed	Total	Required Renewable Energy	Compliance with Required
2015	31,528,578	69,011,500	37,482,922	\$ 1,103,500	\$ 1,311,902	\$ 2,415,403	3,447,053,714	2.00%
2016	50,496,936	107,547,259	57,050,323	\$ 1,767,393	\$ 1,996,761	\$ 3,764,154	3,462,211,225	3.11%
2017	56,164,767	138,743,107	82,578,340	\$ 1,965,767	\$ 2,890,242	\$ 4,856,009	2,711,656,396	5.12%
2018	75,601,900	185,503,755	109,901,855	\$ 2,646,067	\$ 3,846,565	\$ 6,492,631	3,274,833,384	5.66%
2019	90,086,127	221,046,071	130,959,944	\$ 3,153,014	\$ 4,583,598	\$ 7,736,612	3,215,454,655	6.87%
2020	110,427,792	250,729,725	140,301,933	\$ 3,864,973	\$ 4,910,568	\$ 8,775,540	3,207,058,855	7.82%
2021	161,687,299	303,960,214	142,272,915	\$ 5,659,055	\$ 4,979,552	\$ 10,638,607	3,253,883,280	9.34%
2022	196,920,963	321,633,750	124,712,787	\$ 6,892,234	\$ 4,364,948	\$ 11,257,181	2,406,061,063	13.37%
Total	772,914,361	1,598,175,382	825,261,020	\$ 27,052,003	\$ 28,884,136	\$ 55,936,138	24,978,212,573	6.40%

PREPA data up to September 30, 2022 is taken from **22.10.26\_Anejo-2-Datos NEPR-MI-2019-0016**

### RECs Generated by PV Properties, Inc

	kWh	\$	\$	\$	kWh	kWh	kWh
YEAR	generated	Exported	Sold-Consumed	Total	PREPA Required for RPS compliance	PREPA reported for RPS compliance	PREPA RPS shortfall
2015	10,826,247	\$ 151,567	\$ 227,351	\$ 378,919	3,447,053,714	365,090,480	3,081,963,234
2016	19,151,309	\$ 268,118	\$ 402,177	\$ 670,296	3,462,211,225	368,380,898	3,093,830,327
2017	16,484,387	\$ 230,781	\$ 346,172	\$ 576,954	2,711,656,396	375,245,704	2,336,410,692
2018	19,074,306	\$ 267,040	\$ 400,560	\$ 667,601	3,274,833,384	275,061,564	2,999,771,820
2019	21,278,556	\$ 297,900	\$ 446,850	\$ 744,749	3,215,454,655	506,120,025	2,709,334,630
2020	19,059,453	\$ 266,832	\$ 400,249	\$ 667,081	3,207,058,855	521,772,011	2,685,286,844
2021	22,515,159	\$ 315,212	\$ 472,818	\$ 788,031	3,253,883,280	613,980,860	2,639,902,421
2022	23,460,966	\$ 328,454	\$ 492,680	\$ 821,134	2,406,061,063	536,485,453	1,869,575,611
TOTAL	151,850,382	\$ 2,125,905	\$ 3,188,858	\$ 5,314,763	24,978,212,573	3,562,136,994	21,416,075,579

PREPA data from 22.1026\_Anejo-2-Datos NEPR-MI-2019-0016 up to September 30, 2022

RECs are valued at \$35 per REC (1,000 kWh)

6. PV Properties' claim against PREPA as of December 31, 2022 is for \$5,314,763.00 for PREPA's refusal to purchase the RECs generated by PV Properties.

7. PV Properties sustains that the Disclosure Statement should be amended to include the following definitions in order for it to comply with the adequate information requirements of 11 U.S.C. § 1125(a), made applicable to PREPA's Title III proceedings by PROMESA Section 301, 48 U.S.C. § 2104:

**Net Meter** – Means a tool used to measure and register the two-way flow of power (bidirectional), that is, supplied and received energy in kilowatt-hour by a customer who has a distributed generation system interconnected to the power grid of PREPA.

**Net Metering Contracts** – Any customer that, on the date in which the Bureau issues its final determination, has a net metering contract or has notified the Bureau about the certification of the distributed generator. In such cases, the Net Meter customer shall have the right to the rate or compensation mechanism in effect at the time for a term of not less than twenty (20) years as of the execution of the net metering contract.

**Grandfather Customers** – Means Prosumers with Net Metering Contracts in effect as of the date of approval of the Energy Public Policy Act. To whom – Pursuant to the Authority or transmission

and distribution network Contractor shall honor Net Metering Contracts in effect as of the date of approval of this Act in accordance with the agreed-upon terms.

**Renewable Portfolio Standard, “RPS”**- Means the mandatory percentage of sustainable renewable energy or alternative renewable energy required from each retail electricity supplier as established.

**Renewable Energy Credits, “REC”** – Means a personal property that constitutes a tradeable and negotiable asset or commodity that may be purchased, sold, assigned, and transferred between persons for any lawful purpose which is integrally and inseparable equal to one (1) megawatt-hour (MWh) of electricity generated from a sustainable renewable energy source in Puerto Rico issued and registered pursuant to Act 82-2010 and, in turn, represents all environmental and social attributes, as defined in this Act.

**RECs Self-Consumed** – Means a REC that is generated from a renewable energy source and consumed behind the meter.

**RECs Exported to the Grid** – Means a REC that is generated from a renewable energy source and is exported to the grid under a Net Metering Contract.

**Renewable Energy Registry** – Means the North American Renewable Registry (NAR), which administers a Web-based platform to issue serialized Renewable Energy Certificates (RECs), for sustainable renewable energy and alternative renewable energy sources where registered may create and manage their individual accounts, and qualifying and transferring RECs, or any other registry established or authorized by the Commission for accounting and transferring RECs in Puerto Rico.

**Prosumer** – Means any users or customers of the Electrical System who have the capacity to generate electric power for self-consumption that, in turn, have the capacity to supply any energy surplus through the electric power grid.

8. Furthermore, PV Properties sustains that what follows should also be included in the Disclosure Statement as part of the adequate information required by Section 1125(a):

Act 17 of 2019 mandates that after 2014, the rate applicable to Net Meter customers, including the rate or mechanisms through which customers shall be compensated for the energy they supply to the electric power grid, shall be determined exclusively by the Puerto Rico Energy Bureau ("PREB") as part of the electric power service rate review process provided in Act No. 57-2014, or through a separate administrative process when deemed necessary or convenient.

To attest compliance with Section 2.3(e) of Act 17-2019, the Puerto Rico Public Policy Act, the renewable energy generated by Prosumers shall be measured and access provided to public to the Registry of Renewable Energy Certificates.

PREPA has to comply with the Renewable Portfolio Standard ("RPS") by filing with the PREB the RECs acquired thereby.

The Renewable Energy Policy Act mandates, among other things, that retail electricity suppliers in Puerto Rico, like PREPA, comply with a RPS that requires that specified percentages of their energy production must come from renewable energy sources, escalating to twenty percent (20%) by 2022, subject to important qualifications. Act 82-2010, 22 L.P.R.A. § 8124.

PREPA has not purchased RECs from any Distributed Generator.

In October 2021, PREB issued a draft regulation for comments, which has not progressed since that time (NEPR-MI-2021-0011).

9. In view of the above, the following should follow:

- a. That the minimum value of the RECs will be the result of the multiplication of the market cost of a metric ton of CO<sub>2</sub>e by the CO<sub>2</sub>e emission factor of the electricity generators that use fossil fuels;

- b. That non-compliance with their purchase is subject to a penalty equal to double the minimum value; and
- c. That ownership of the RECs belongs to the REC generator until it is legally transferred.

10. Prosumers with Net Metering Contracts generate RECs Self-Consumed and RECs Exported to the Grid. PREPA's revenue grade meters register the RECs Exported to the Grid. The Prosumer inverter and meter register both the RECs Self-Consumed and the RECs Exported to the Grid. Act 82-2010 as amended gives title to both types of RECs to the generator, therefore the RECs Exported to the Grid included in PREPA's RPS compliance reports must be purchased from the Prosumer.

11. In summary, the Disclosure Statement is not based, nor does it recognize the legal framework within which PREPA must operate.

**WHEREFORE**, it is respectfully requested that PREPA be directed to amend its disclosure statement as indicated above.

**CERTIFICATE OF SERVICE:** We hereby certify that on this same date we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants.

San Juan, Puerto Rico this 26<sup>th</sup> day of January 2023

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